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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MORRIS BICKLEY, MICHAEL D.
PATTON, RAYMOND GREWE, DENNIS
VANHORN, and DOUGLAS PUMROY,
individually and on behalf of all others
similarly situated, and the general public,

Plaintiffs,

v.

SCHNEIDER NATIONAL CARRIERS, INC.,
a Nevada corporation, and DOES 1 to 10,
inclusive,

Defendants.

) CASE NO.: 4:08-cv-05806-JSW

) **CLASS ACTION (FRCP 23)**

) **JOINT STIPULATION TO CONTINUE
CASE MANAGEMENT ORDER DATES
AND DEADLINES IN FURTHERANCE OF
CONTINUED APRIL 15, 2015
MEDIATION; ~~PROPOSED~~ ORDER**

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SCHNEIDER NATIONAL CARRIERS, INC.

Plaintiffs and Defendants hereby submit the following Joint Stipulation to Continue Case Management Conference Dates and Deadlines in Furtherance of Continued April 15, 2015 Mediation (“Stipulation”):

WHEREAS, on January 22, 2013, the Court entered its Order granting Defendant’s Motion to Stay this action pending the appeals before the Ninth Circuit in *Dilts v. Penske*, 819 F.Supp.2d 1109 (S.D. Cal. 2011), and *Campbell v. Vitran*, 2012 WL 2317233 (C.D. Cal. June 8, 2012) (Dkt. #207).

WHEREAS, on July 21, 2014, after the Ninth Circuit’s decisions in those cases were rendered, the Court entered an Order lifting the stay of this action (Dkt. #216).

WHEREAS, in connection the stay of this action being lifted, on September 26, 2014, the Court held a Case Management Conference (“CMC”) to review the status of this case and set further dates and deadlines related thereto, for which the Parties filed a Joint CMC Statement with the Court on September 19, 2014 (Dkt. #227).

WHEREAS, after completion of the CMC, on October 3, 2014, the Court entered its Case Management Order Scheduling Trial and Pretrial Matters (the “CMO”) (Dkt. #229), which set the following dates and deadlines for this case:

<i>Deadline or Event</i>	<i>Day</i>	<i>Date</i>	<i>Time</i>
Completion of Private Mediation	Monday	January 26, 2015	
Last Day for Expert Discovery	Monday	August 3, 2015	
Close of ALL Discovery	Monday	August 31, 2015	
Last Day to Hear Dispositive Motions	Friday	September 11, 2015	9:00 a.m.
Pretrial Conference	Monday	December 7, 2015	2:00 p.m.
Jury Selection	Wednesday	January 6, 2016	8:00 a.m.
Jury Trial Date	Monday	January 11, 2016	8:00 a.m.

1 WHEREAS, in accordance with the foregoing, the Parties agreed on the selection of David
 2 Rotman, Esq. in San Francisco for their mediator and scheduled such mediation to occur on
 3 Wednesday, January 21, 2015, and agreed that mailing of notice of the pendency of the action to the
 4 certified class members would be deferred until shortly after the completion of the mediation, in the
 5 hope that a successful mediation would obviate the need for notice to be sent other than for a
 6 preliminarily approved class action settlement.

7 WHEREAS, in preparation for the mediation, the parties conferred throughout November
 8 and December 2014 and through January 15, 2015, on the parameters for a data pull to be prepared
 9 by Defendant and shared with Plaintiffs for purposes of evaluating the potential exposure in the case
 10 prior to the mediation.

11 WHEREAS, due to the size of the certified classes and the almost decade-long class period
 12 involved, and significant changes in Defendant's personnel who were involved in a prior data pull
 13 provided by Defendant in discovery during the case back in 2011 (including one who passed away
 14 not long thereafter), as well as the fact that Defendant substituted in new defense counsel in this
 15 action in 2014 that was not involved in the prior data pull provided in that earlier discovery,
 16 Defendant encountered significant challenges in terms of systems data and capacity, personnel with
 17 institutional knowledge, and familiarity with prior data provided earlier in the case during discovery.

18 WHEREAS, as a result of the foregoing, Defendant was not able to provide an initial
 19 mediation data pull to Plaintiffs until January 5, 2015, but, unfortunately, Plaintiffs immediately
 20 identified issues with the potential integrity of the data provided, particularly when compared to the
 21 data previously provided by Defendant earlier in the case during discovery, which the Parties'
 22 counsel conferred about extensively during the week of January 5, 2015.

23 WHEREAS, as a result of the Parties' conferring about the January 5, 2015 mediation data
 24 pull provided by Defendant, a second mediation data pull was provided by Defendant to Plaintiffs on
 25 January 13, 2015, but, unfortunately, Plaintiffs again immediately identified issues with the potential
 26 integrity of the data provided, and again particularly when compared to the data previously provided
 27 by Defendant earlier in the case during discovery, which the Parties' counsel conferred about
 28 extensively during the days following that week.

1 WHEREAS, as a result of reviewing the issues raised by Plaintiffs about the mediation data
 2 pulls provided to them to date, on January 15, 2015, Defendant concluded that it would be
 3 impossible to reconcile the data issues identified by Plaintiffs sufficiently in advance of the January
 4 21, 2015 scheduled mediation which was only four business days away because significant work and
 5 coordination with Plaintiffs would be required to understand and agree that both sides are evaluating
 6 the same reliable data set and are in mutual agreement as to what the data therein represents.

7 WHEREAS, in light of the foregoing, on January 15, 2015, Defendant notified Plaintiffs that
 8 proceeding with the mediation as scheduled on January 21, 2015 would not only not result in a
 9 resolution of the action, but would carry with it the probable risk of being counterproductive to
 10 achieving a resolution in the short term, an assessment which Plaintiffs shared at that point.

11 WHEREAS, in order to avoid the foregoing, Defendant requested that Plaintiffs agree to an
 12 approximately 60-day continuance of the mediation with Mr. Rotman and, subject to the court's
 13 approval, a comportsing continuance of all dates and deadlines in the CMO, such that the Parties
 14 could focus their attention and efforts on reaching agreement on the sources and scope of, and
 15 preparing, a mediation data pull that both sides are comfortable with to prepare their assessments of
 16 the potential exposure in the case and have a productive mediation with Mr. Rotman.

17 WHEREAS, due to Mr. Rotman's reputation and demand to serve as a class action mediator,
 18 the first available date he had to continue the mediation which works for all Parties and their counsel
 19 is Wednesday, April 15, 2015, which the Parties have reserved, and, in order to facilitate the
 20 completion of that mediation as set forth above, the Parties are herein stipulating and requesting, for
 21 good cause as set forth above, that the CMO dates and deadlines be continued by the Court as set
 22 forth below.

23 NOW THEREFORE, IT IS HEREBY STIPULATED AND REQUESTED by the Parties
 24 herein, through their counsel of record, that the dates and deadlines in the CMO be continued to the
 25 new dates as set forth below, or such other dates as are more convenient for the Court, and that all
 26 other provisions of the CMO remain unchanged, including the procedures for bringing dispositive
 27 motions as directed by the Court at the September 26, 2014 CMC:

<i>Deadline or Event</i>	<i>Day</i>	<i>Old Date</i>	<i>New Date</i>	<i>Time</i>
Completion of Private Mediation	Monday	January 26, 2015	April 20, 2015	
Last Day for Expert Discovery	Monday	August 3, 2015	October 26, 2015	
Close of ALL Discovery	Monday	August 31, 2015	November 23, 2015	
Last Day to Hear Dispositive Motions	Friday	September 11, 2015	December 4, 2015	9:00 a.m.
Pretrial Conference	Monday	December 7, 2015	February 29, 2016	2:00 p.m.
Jury Selection	Wednesday	January 6, 2016	April 13, 2016	8:00 a.m.
Jury Trial Date	Monday	January 11, 2016	April 20, 2016	8:00 a.m.

IT IS SO STIPULATED.

DATED: January 26, 2015

**MARLIN & SALTZMAN
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LAW OFFICES OF PETER M. HART
LAW OFFICES OF KENNETH H. YOON
LAW OFFICE OF ERIC HONIG**

By: /S. Stanley D. Saltzman
Stanley D. Saltzman, Esq.
Attorneys for Plaintiffs and Lead Counsel for
Intermodal and Dedicated Subclasses

DATED: January 26, 2015

**HAGENS BERMAN SOBOL SHAPIRO LLP
REHWALD GLASNER & CHALEFF**

By: /S/ Lee M. Gordon
Lee M. Gordon, Esq.
Attorneys for Plaintiffs and Lead Counsel for
Regional Subclass

1 DATED: January 26, 2015

MCGUIRE WOODS LLP

2
3 By: /S/ Matthew c. Kane

4 Matthew C. Kane, Esq.
Attorneys for Defendants

5
6
7
8 **SIGNATURE ATTESTATION**

9 In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this
10 document has been obtained from the signatories on this e-filed document.

11
12 DATED: August 14, 2014

/S/ Matthew C. Kane

13 Matthew C. Kane

14 **(PROPOSED) ORDER**

15
16 PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.

17
18 DATED: January 28, 2015

19 
Hon. Jeffrey S. White
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2015, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and service via transmittal of a Notice of Electronic Filing.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 26, 2015 at Los Angeles, California.

/s/ Matthew C. Kane

MATTHEW C. KANE